



BILLING CODE: 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-475-819]

#### **Certain Pasta from Italy: Final Results of the Expedited Fourth Sunset Review of the Countervailing Duty Order**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) finds that revocation of the countervailing duty order would be likely to lead to the continuation or recurrence of a countervailable subsidy at the levels indicated in the “Final Results of Review” section of this notice.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Mary Kolberg, AD/CVD Operations, Office I,

Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1785.

#### **SUPPLEMENTARY INFORMATION:**

##### Background

On July 24, 1996, Commerce published the countervailing duty order on certain pasta from Italy.<sup>1</sup> On August 1, 2018, Commerce published the notice of initiation of the fourth sunset review of this order, pursuant to section 751(c)(2) of the Tariff Act of 1930, as amended (the

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<sup>1</sup> See *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta (“Pasta”) from Italy*, 61 FR 38544 (July 24, 1996).

Act).<sup>2</sup> On August 16, 2018, Commerce received a notice of intent to participate from A. Zerega's Sons, Inc. (Zerega), Dakota Growers Pasta Company, Inc. (Dakota Growers), Riviana Foods, Inc. (Riviana) (formerly, New World Pasta Company),<sup>3</sup> and TreeHouse Foods, Inc. (TreeHouse)<sup>4</sup> within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>5</sup> Zerega, Dakota Growers, Riviana, and TreeHouse claimed interested party status under section 771(9)(C) of the Act as producers of pasta in the United States.

On August 31, 2018, Commerce received an adequate substantive response to the notice of initiation from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>6</sup> On September 10, 2018, Commerce received a substantive response from the Government of Italy (GOI).<sup>7</sup> However, we received no substantive responses from respondent interested parties who are producers or exporters of the subject merchandise. A government's response alone, normally, is not sufficient for Commerce to conduct a full sunset review, unless the investigation was conducted on an aggregate basis.<sup>8</sup> This investigation was conducted on a company-specific, rather than an aggregate, basis.

On September 20, 2018, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.<sup>9</sup> As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2),

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<sup>2</sup> See *Initiation of Five-Year (Sunset) Reviews*, 83 FR 37463 (August 1, 2018) (Initiation Notice).

<sup>3</sup> New World Pasta Company merged into Riviana Foods Inc. effective January 1, 2017.

<sup>4</sup> TreeHouse acquired the American Italian Pasta Company in February 2016.

<sup>5</sup> See letter from Zerega, Dakota Growers, Riviana, and TreeHouse, "Five-Year ("Sunset") Review of the Countervailing Duty Order on Certain Pasta from Italy – Domestic Interested Parties' Notice of Intent to Participate," dated August 16, 2018.

<sup>6</sup> See letter from Zerega, Dakota Growers, Riviana, and TreeHouse, "Certain Pasta From Italy – Five-Year ("4<sup>th</sup> Sunset") Review of the Countervailing Duty Order," dated August 31, 2018.

<sup>7</sup> See letter from the GOI, "Five-Year (Sunset) Review of the Countervailing Duty Order on Certain Pasta From Italy: Response of the Government of Italy," dated September 10, 2018.

<sup>8</sup> See, e.g., *Certain Pasta from Turkey: Final Results of Expedited Five-Year ("Sunset") Review of the Countervailing Duty Order*, 72 FR 5269 (February 5, 2007); *Certain Carbon Steel Products from Sweden: Final Results of Expedited Sunset Review of Countervailing Duty Order*, 65 FR 18304 (April 7, 2000).

<sup>9</sup> See Commerce Letter re: "Sunset Reviews Initiated on August 1, 2018," dated September 20, 2018.

Commerce has conducted an expedited (120-day) sunset review of the countervailing duty order on certain pasta from Italy.

#### Scope of the Order

Imports covered by the *Order* are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by the scope of the *Order* is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of the *Order* are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the *Order*.<sup>10</sup> Pursuant to Commerce's May 12, 2011, changed circumstances review, effective January 1, 2009, gluten free pasta is also excluded from the scope of the *Order*.<sup>11</sup> Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Order*.<sup>12</sup>

Also excluded are imports of organic pasta from Italy that are certified by an EU authorized body in accordance with the United States Department of Agriculture's National Organic Program for organic products. The organic pasta certification must be retained by

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<sup>10</sup> See Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the Central Records Unit.

<sup>11</sup> See *Certain Pasta from Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011).

<sup>12</sup> See *Certain Pasta from Italy: Final Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews and Revocation, in Part* 79 FR 58319, 58320 (September 29, 2014).

exporters and importers and made available to U.S. Customs and Border Protection or the Department of Commerce upon request.

The merchandise subject to the order is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the *Order* is dispositive.

#### Analysis of Comments Received

All issues raised in this sunset review are addressed in the Issues and Decision Memorandum,<sup>13</sup> which is dated concurrently with and hereby adopted by this notice. The issues discussed in the Issues and Decision Memorandum are the likelihood of continuation or recurrence of a countervailable subsidy and the net countervailable subsidy likely to prevail if the order were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Final Results of Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the countervailing duty order on pasta from Italy would be likely to lead to the

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<sup>13</sup> See Memorandum "Issues and Decision Memorandum for the Final Results of the Fourth Expedited Five-Year Sunset Review of the Countervailing Duty Order on Certain Pasta from Italy," dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

continuation or recurrence of a countervailable subsidy at the rates listed below:

Producer/ Exporter	Net Subsidy Rate (percent)
Agritalia, S.r.l.	10.45
Arrighi S.p.A. Industrie Alimentari	10.34
De Matteis Agroalimentare S.p.A.	9.64
Delverde, S.r.l.	13.25
F.lli DeCecco di Fillippo Fara S. Martino S.p.A.	9.90
Industria Alimentare Colavita, S.p.A.	9.50
Isola del Grano, S.r.L.	17.19
Italpast S.p.A.	17.19
Italpasta S.r.l.	10.34
La Molisana Alimentari S.p.A.	11.31
Labor, S.r.L.	17.19
Molino e Pastificio DeCecco S.p.A. Pescara	9.90
Pastificio Guido Ferrara	8.83
Pastificio Campano, S.p.A.	9.96
Pastificio Riscossa F.lli Mastromauro S.r.L.	14.30
Tamma Industrie Alimentari di Capitanata	13.25
All Others	11.01

#### Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: November 28, 2018.

**Gary Taverman,**

*Deputy Assistant Secretary*

*for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance.*

## Appendix

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. History of the Order
- III. Background
- IV. Scope of the Order
- V. Discussion of the Issues
  - 1. Revocation of the Order is Likely to Lead to a Continuation or Recurrence of a Countervailable Subsidy
  - 2. Net Countervailable Subsidy Rates that are Likely to Prevail
  - 3. Nature of the Subsidies
- VI. Final Results of the Review
- VII. Recommendation

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